

# STATE OF ILLINOIS

## ILLINOIS COMMERCE COMMISSION

Village of Chicago Ridge

-vs-

CSX Transportation, Inc.

T02-0089

Petition for an Order of the Illinois Commerce Commission directing the construction of a pedestrian grade crossing for the Central Avenue sidewalk with the tracks (DOT 163-578S) of the CSX Transportation, Inc. (hereinafter the "Railroad") in the Village of Chicago Ridge.

### ORDER

By the Commission:

On August 26, 2002, the Village of Chicago Ridge, Cook County, Illinois ("Petitioner") filed the above-captioned petition with the Illinois Commerce Commission ("Commission") naming as Respondent CSX Transportation, Inc. ("the Railroad").

Pursuant to notice, the matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at the Commission's Chicago office on November 22 and December 9, 2002. Petitioner was represented by counsel. Appearances were also entered by Henry C. Humphries and Brian Vercruysse, members of the Commission staff, Transportation Division, Railroad Section. At the conclusion of the hearing on the aforementioned latter date, the record was marked "Heard and Taken."

A proposed order was served upon the parties on or about January 21, 2003. Briefs of exceptions, as filed, were considered herein.

The Railroad has two main tracks running in a general east-west direction through the petitioning Village. The Village has a major collector street commonly known as Central Avenue which is under the jurisdiction of the Cook County Highway Department and which runs in a general north-south direction through the Village. Central Avenue is a four lane divided roadway. The intersection of Central Avenue with the tracks of the Railroad is now improved with grade crossing improvements for the vehicular traffic portion of the right-of-way.

Petitioner proposes the construction of a concrete sidewalk along Central Avenue in those areas approaching the Railroad's tracks for the purpose of providing continuity with pedestrian routes to improve public safety. The

sidewalk will be five feet (5') wide and constructed on both the east and west sides of Central Avenue. The proposed sidewalk is depicted on Exhibit "1" attached to and made a part of the petition. The sidewalk will come under the jurisdiction of Petitioner.

Average daily vehicular traffic is 18,000 to 19,000. Pedestrian traffic consists of residents of the area and students at Richard High School. Richard High School is north of the crossing and east of Central Avenue. The school is open year-round and evenings and generates a variable amount of foot traffic depending on the weather and the hour. There is a negligible amount of bicycle traffic and there is no intent to construct a bicycle path.

The entire cost of the construction of the sidewalk shall be borne by Petitioner.

The Commission, having considered the evidence of record, is of the opinion and finds that:

- (1) the Village of Chicago Ridge, Cook County, Illinois, is a political subdivision organized and existing under and by virtue of the laws of the State of Illinois;
- (2) CSX Transportation, Inc. is a corporation engaged in the transportation of persons and/or property by rail in the State of Illinois and as such, is a rail carrier as defined by the Illinois Commercial Transportation Law;
- (3) the Commission has jurisdiction of the subject matter and parties herein;
- (4) the recitals of fact set forth in the prefatory portion of this order are supported by evidence of record and are hereby adopted as findings of fact;
- (5) the Village of Chicago Ridge, Cook County, Illinois, is directed and required to proceed with the construction of concrete sidewalks on the east and west sides of Central Avenue as it intersects with the tracks of CSX Transportation, Inc.;
- (6) CSX Transportation, Inc. is directed and required to proceed with the construction of a concrete pedestrian crossing on its right-of-way at the subject site, the cost of which is to be borne by the Village;

- (7) it is fair and reasonable that the entire cost of the construction of the aforementioned sidewalks be borne by the Village of Chicago Ridge;
- (8) it is fair and reasonable that the cost of future maintenance of the sidewalks be borne by the Village of Chicago Ridge;
- (9) the project approved herein should be completed within one year of the date of this Order;
- (10) Chapter 625 ILCS 5/18c-1701 and 5/18c-1704 of the Law require each "person" as defined by 5/18c-1104 to comply with every regulation or order of the Commission; these sections further provide that any person who fails to comply with a Commission regulation or order shall forfeit to the State not more than \$1,000 for each such failure, with each day's continuance of the violation being considered a separate offense; while the Commission expects all parties to comply with this Order in all matters addressed herein and in a timely manner, the Commission advises that any failure to comply may result in the assessment of such sanctions.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Village of Chicago Ridge, Cook County, Illinois is required and directed to construct two sidewalks, east and west of Central Avenue at its intersection with the tracks of CSX Transportation, Inc. Construction shall be in conformity with the plan shown on Exhibit One, attached to the petition.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that CSX Transportation, Inc. is required and directed to construct a concrete pedestrian crossing on its right-of-way at the subject site, the cost of which is to be borne by the Village of Chicago Ridge.

IT IS FURTHER ORDERED that the cost of construction of the sidewalks and the cost of future maintenance of the sidewalks is the sole responsibility of the Village of Chicago Ridge.

IT IS FURTHER ORDERED that the project approved herein shall be completed within one year of the date of this Order.

IT IS FURTHER ORDERED that any person making a Request for Extension of Time up to thirty (30) days to complete a project ordered by the Commission must file a request with the Director of Processing no later than fourteen (14) days in advance of the scheduled deadline. An Administrative Law Judge will consider and decide the request.

IT IS FURTHER ORDERED that any person requesting an extension of time which exceeds thirty (30) days must file a Petition for Supplemental Order with the Director of Processing no later than twenty-one (21) days in advance of the scheduled deadline. The Commission will decide Petitions for Supplemental Orders.

IT IS FURTHER ORDERED that Requests for Extension of Time and Petitions for Supplemental Orders must include the reason(s) the additional time is needed to complete the work and the time within which the project will be completed. Prior to submitting a Request for Extension or a Petition for Supplemental Order, the person must notify the Commission's Rail Safety Program Administrator that it is unable to complete the project within the ordered timeframe.

IT IS FURTHER ORDERED that the Administrative Law Judge reserves the right to deny Requests for Extension of Time and Petitions for Supplemental Orders if the reason(s) supporting the request is insufficient or where it appears the person has not made a good faith effort to complete the project within the allotted time. Failure of the Administrative Law Judge to act on a pleading prior to the deadline means the originally ordered completion date remains in effect.

IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this 20<sup>th</sup> day of February 2003.

JUDGE	<i>JB</i>
SECTION CHIEF	
ORDERS SUPERVISOR	<i>[Signature]</i>

*Kevin H. Wright*

Chairman